

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

GIOVANNA MORELLI,

Plaintiff,

v.

NETWORK FINANCIAL GROUP, INC.,
et al.,

Defendants.

No. C 10-0934 PJH

**ORDER VACATING HEARING
DATE**

Before the court is defendants' motion to dismiss plaintiff's complaint, which is set for hearing on July 7, 2010. Neither an opposition brief, nor a reply brief have been filed. Plaintiff did, however, file an amended complaint on June 18, 2010 – 21 days after the filing of the motion to dismiss, and in compliance with amended FRCP 15(a)(1)(B). The filing of the amended complaint was therefore timely, and the amended complaint is now the operative complaint on file in the action.

As such, and without reviewing the merits of the amended complaint and whether it adequately responds to the arguments raised in defendants' motion to dismiss the original complaint, and in the interest of judicial economy, the court VACATES the July 7, 2010 hearing date and suggests that defendants withdraw the pending motion to dismiss, as it is now moot in light of the amended complaint. Instead defendants should respond to the amended complaint by filing an answer or a revised motion to dismiss and noticing it for hearing, pursuant to the civil local rules.

IT IS SO ORDERED.

Dated: June 30, 2010



PHYLLIS J. HAMILTON
United States District Judge